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THE WORLD MARITIME UNIVERSITY

MALMO Sweden

TITLE of PAPER

TOWARDS A NEW MARITIME ADMINISTRATION
IN COLOMBIA

by

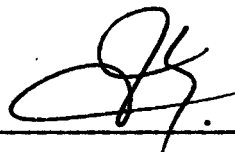
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NAME

A Paper submitted to the World Maritime University
as part of the requirements of the Course on
General Maritime Administration.

The contents of this Paper reflect my own personal
views and are not necessarily endorsed by the World Maritime
University or the International Maritime Organization.

Signature:



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24 04 85

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The World Maritime University



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P R E F A C E

This work represent the exposition of some ideas resulting of the experience acquired by the author during the development of the course of General Maritime Administration (GMA-83) and the opportunity to know different Maritime Administrations in Europe, during the field trips which included visits to Norway, Denmark, Sweden, Netherlands, England and Spain.

It is easy deducting that the situation in a country like Colombia with a maritime activity less developed, the application of a similar model of one of the old and maritime nations mentioned before would be a mistake due to the different circumstances, which affect this purpose. But there are some basic principals common in all, which determine a adequate way in the administration of maritime activities with structural characteristics more susceptible to adopt changes that the dynamic itself of these activities bring it in the very short future time.

On the other hand there are two facts that have to be considered, one of them is that the maritime activity is an international activity involving all the countries in the world. One of their manifestations is the economic activity that concern all the regions into the foreign trade in which the sea is the principal way to do it.

The second fact is the international cooperation to improve the performance of these activities, principally in the aspects which tend to make the trade more easy, and safe. This cooperation is presented as international agreements which introduce mechanism and organizations that permit the development of these activities inside of a scope of rights and duties, at the same time, there has been incorporated fundamental aspects as the safety of life at sea and protection of environment which are sensitive and easily affected by the maritime activities. One of these international agreements is represented by the International Maritime Organization in charge of keep on these matters.

These subjects are understood for all the countries. Nowadays it is not only necessary to improve the efficiency in the performance of maritime activities but also at the same time to improve the standards of safety and the measures that permit guarantee the environment protection.

INTRODUCTION

The evolution in the maritime scope due to the technological advances, the specialization and the high standards that have been achieved in the services, have also generated the necessity for the national maritime administrations to implement a serie of rules, derivated of the international conventions, that permit to the activities at sea would be controlled, guaranteeing maritime activities under safety and conserve the environment..

These treaties and international conventions ratified by a great majority of the countries in the world give them new resposabilities. This demand a more efficient administrative structure which permits them the application of a real control over the maritime activities in their own administrations.

This work has for object to present a model of maritime administration to apply in a country like Colombia which needs development its maritime activities in regarding to the new interna

tional conventions that already has ratified as SOLAS 74/78, MARPOL 73 and STCW Convention.

The model has been made in regarding two main aspects : separation of merchant marine affaires from the others maritime activities actually involved in the same organization and to give a relevant importance to the maritime safety administration, in consequence the proposal model consider to different units independent one of each other.

This academic work try only to call the attention over two aspects mentioned before and their importance that an administration has to give them, specially when a country is contracting of international conventions and needs to adecuate its administrative structure to new responsibilities and functions.

e-To order studies and requirements to make the promotions of officers and crews of the Merchant Marine.

The organization of the Direction of Merchant Marine was made like a unit dependant of the Navy Commandant and inside of Ministry of Defense and had three important divisions :

- a-Marine Transport Division
- b-Seafarer and vessels division
- c-Oceanographic division

This organization rested until 1971 when the 3183/52 Decreto Ley was ^{b/}substituted by the 2349/71 Decreto Ley which established a new organization called Direccion General Maritima Y Portuaria in substitution of the first organization.

The Direccion General Maritima Y Portuaria was also organized as a unit of the Navy organization and its structure included:

- Director General
- a-Maritime and Ports Conseil (^{a advice} asses function non permanet unit)
- b-Plannig office
- c-Legal office

d-Merchant Marine Division .

-Marine Transport

-Seafarers and vessels

-Harbor masters

e-Oceanographic Division

f-Economic and Financial Division

The functions of the Direction were increased, but its hierarchy level remained as before, its most important functions were:

a-Asses to the Government in the adoption of the policy and the programs about the maritime activities.

b-To promote the development of the Colombian Merchant Marine.

c-To execute the state policy in the maritime activities.

d-To regulate cargo distribution in the foreign trade of the country to get an equitable participation of the national flag.

e-To regulate and control the assignation of international routes for the Colombian shipping companies and also for coastal traffic.

f-To control the application of international rules about safety in navigation and safety of life at sea.

G-To coordinate with the Navy the control of maritime traffic and the coastal communications with the agency of the Government specialized in these matters.

h-Construction and maintenance of navigation aids.

i-Programation and execution of the oceanographic studies.

j-Organization and supervision of the pilots services in the ports.

k-Approval of new building of vessels

l-To approve the charter parties.

m-To approve the agreements of cargo freights.

n-To promote the naval constructions.

o-To control the use of beaches and low tide areas.

p-To regulate and control the application of the rules for cargo reserved for the national flag.

q-To give concepts to the Government about the international conventions related with the maritime aspects.

r-To judge and resolve the infractions against the Merchant marine rules.

s-To control the application of rules to prevent the marin pollution.

This legal structure was in force until September /84 when it was replaced by the Decreto Ley 2324 /84 that reformed the National Maritime Administration.

First of all in order to clarify the concept about Decrto Ley that means one president's decree with the force of a law. The procedure is as follows: due to special circumstances that require a quick action but justified by a law, in regard that the normal procedure in expedition a law in the Republic Congress is a matter concerning very long time, then the Congress may give to the president an attribution for a very short time and a very specific matter, the president can under these conditions make a law with his ordinary decrees. This act is called "Extraordinary faculties " .

This procedure is useful when the Public Administration requires a new organization in one of their units, so it was how the Direcci on General Maritima Y Portuaria have been reformed in the last September. It is necessary to keep in mind that from its creation in 1952 the Direccion has only been changed twice, that means normally more than ten years for a new reform.

The hierarchy of the new organization is the same as the precedent organization under 2349/71 Decreto Ley and with the same administrative characteristics. The new organization include:

-Director General, who depends of the Navy's commander and inside of Defense Ministry.

a-General Secretary

b-Legal affairs office

c-Planning office

d-Coast and marine research division

e-Marine transport

f-Administrative division

g-Regional offices for:

-Harbour masters first category

-Harbour masters second category.

- Atlantic sea navigation aids
- Pacific sea navigation aids
- Oceanographic and Hydrographic research center, Cartagena.

- Marine pollution control and prevention center , Tumaco (Pacific coast).

The object of the Direccion General Maritima y Portuaria is the execution of the Government policy in maritime matters and the regulation direction, coordination and control of the maritime activities.

This Decreto Ley consider the following as maritime activities for all the effects:

- a-The construction and maintenance of navigation aids.

- b-Maritime transport.

- c-Merchant Marine

- d-Maritime communications

- e-Construction of ports

- f-Marine research.

- g-Exploration and exploitation of marine resources.

h-Recuperation of treasures and wreck from the bottom of the sea.

i-Leisure and sports at sea.

j-Any tipe of structures built at sea , fixed or not.

k-Metereological forecast at sea.

l-All class of engineering works at sea .

m-The shipyards ' activities.

According with these mentioned activities the Direccion has the following principal functions :

1-To advise to the Government in the adoption of policy and development programs in maritime matters and their execution.

2-To direct, to control and promote the development of the merchant marine.

3-To coordinate with the Navy the control of maritime traffic.

4-To install and maintain of navigational aids.

5-To regulate and control the matters related with the safety in navigation, safety of life

at sea, life saving and to determine the minimum crews on board of ships of the national flag.

6-To give the authorization for operation of vessels in the jurisdictional waters.

7-To regulate and control the acquisition, sale, reparation of the vessels.

8-To control the activities related with call at port, anchorage, towage etc. of all vessels in the colombian ports.

9-To regulate and control of National ships register.

10-To encourage and supervise the organization of shipyards.

11-To regulate and control the companies in charge of activities like: pilots, towage, maritime agencies, stowage, dredge, classification societies, salvage and others.

12-To advise the Government about seafarers training centers.

13-To regulate and direct the maritime transport activities.

14-To authorize agreements between the national shipowners.

15-To authorize the charter parties.

16-To approve the enter of national shipowners to the maritime transport conferences.

17-To approve the freights tariff.

18-To authorize the application of cargo reserve.

19-To control of application of rules to protect the marine environment.

20-To regulate and control of the use of land in the areas of low tide.

21-To regulate and control of construction of ports and their operation.

22-To establish the anchorage areas.

23-To establish the tariff for maritime services.

24-To do the investigation for violations of Merchant Marine Rules and to judge the infractors.

II-ACTUAL SITUATION

After the Decreto Ley 2324/ 84 (September 18) came into in force, the Direceion General Maritima y Portuaria (DIMAR) aquired new juridical tools that has permitted to increse its functions then from a theoretical point of view it will be possible to improve its perfoman ce in the exercise of the Maritime Authority.

But the essential problem that was detected long time ago, was not resolved with this new organization. Any change about give the necessary administrative autonomy to rise its hirarchy level by a position more according with the variety and importance of its functions or give it the necessary technical and human resources that permits the goals that the law has established in its mission to be achieved.

It is possible to observe the wide scope of its responsabilities for the compliment of all these functions ,it is easy to deducte that only a big organization can do it, speaking only in terms of the number and variety of function.

not about the efficiency in its performance in other words the development itself of the National Maritime sector in real terms needs on the government side an administration according with its services and control duties required thus permitting the harmonic growth of the maritime sector, preventing it from being an obstacle or a boundary to its development.

Also it's necessary to consider the international conventions effects on a contracting government. The responsibilities and duties derivatives of these compromises required of an organization and the technical and human resources necessities to get a good performance in the accomplishments of its functions.

An organization with functions and responsibilities of the national order, that means activities covering the whole country, required the same level that other government agencies which activities have a similar scope, in this case the level of DIMAR is not according with

this principle, then its activities are limited for the difficulty to take quick decisions because in its actual level required at least two supervisions in its acts.

DIMAR's responsibilities cover from oceanographic research, with two centers very specialized located one in each coast, it is attending also the hydrographics activities, it is attending the maritime transport control, it is attending port state control, it is attending the register and control of merchant marine vessels, fishing vessels and all kind of naval devices and seafarers, it is attending the investigation for violations of merchant marine rules.

In summary the part of merchant marine and safety for the protection of man and environment, occupy a very secondary place in the organization, thus the attention and solution of these matters remain in the same order of importance.

Other aspect to consider in the analysis of actual situation of DIMAR is the lack or

or in other words the almost null participation of people with merchant marine background inside of merchant marine administration, we must remember that the present organization is a unit of the Navy.

III-A MODEL PROPOSAL

After we have seen the actual organization, the purpose of the present model is to try getting a structure where the merchant marine and safety matters be relevant aspects, and where also they have one administration more agile and really be an element that promotes the development of them.

Then the first step is to separate the merchant marine activities from the present organization. There are three basic elements that the model considers :

- 1- Human (seafarers)
- 2- Machines (vessels)
- 3- Activities (transport)

The organization has to tend toward giving the adequate consideration of each one of these three elements.

The second is to separate the marine safety from the merchant marine activities.

This action is maybe most important that the first one, later on I will explain this point of view. Its importance has not been regarded but as a very secondary aspect. The fact is that in the basic structure of DIMAR given by the decreto Ley 2324/84 it only has received a very superficial treatment.

It's not the intention in this work to analyse in deep the reasons for that situation, but to the attention to the two main factors mentioned before

In order to reach the aims in a maritime administration must be consider separately the merchant marine administration and the marine safety because the essential of control rests in the autonomy degree to do it.

It's necessary to organize a work inside of Public Administration in capacity to assimilate the sectors requirements and return to them efficient actions which promote thus its development.

This project present in consequence
a organization of the marite sector divided in two
different units:

- Merchant Marine Direction
- Marine Safety Direction

These administrative units will have
an equal hirarchy level, administrative autonomy ,
with a jurisdiction in the national order (activi
ties that cover all the country) and dependent di
rectly of a ministry.

IV-BASIC ASSUMPTIONS

I have considered three basic assumptions needed to fulfill the purposes with the new maritime administration in the proposal model as follows :

a- A political decision as a result of convincing of the importance of the matters in question.

The real disposition to get important changes that permits the clear application of a policy in this sense, in other words that permits to have the possibility to reach the goals established in the definition of purposes.

b-We should consider this second assumption derived of the first one and it is that the organization should have a position in the Public Administration, in terms of hierarchy according with its responsibilities and duties, that means to get an equal position with the other governmental agencies which have in other matters

equal responsibilities in the national order.

c- The assignation of technical, economic and human resources that permits to put into practice all the purposes and principles determined in the objectives of the new units.

The selection and training of the personnel to work in the maritime administration represents a basic factor. Otherwise it's not possible to pretend an efficient administration if there are lack of skilled personnel in these matters.

Then it's necessary to implement technical capacitation programs for a short, middle and long term, because the formation of skill personnel is a slowly process and that required the permanent attention by the administration.

V-ORGANIZATION

The two administrative units presented in this projects should be considered first as two different bodies but coordinate of the functional manner .

1- Direction of Merchant Marine

This unit should have as object the execution of Government policy in matters related with the marine personnel, vessels involved in merchant marine and its complementary services fishing vessels (register of ships, crews control only) and maritime transport, with the purpose to reach the efficiency of its activities and to promote its development.

The unit should have the following organization :

-Director of merchant marine.

1-Planning and development office.

2-Legal office.

3-Marine personnel

3.1-Marine personnel register.

3.2-Certificates

3.3-Human resources development.

4-Vessels

4.1-National Ship Register.

4.2-Operational control of ships.

5- Maritime transport

5.1-International traffic.

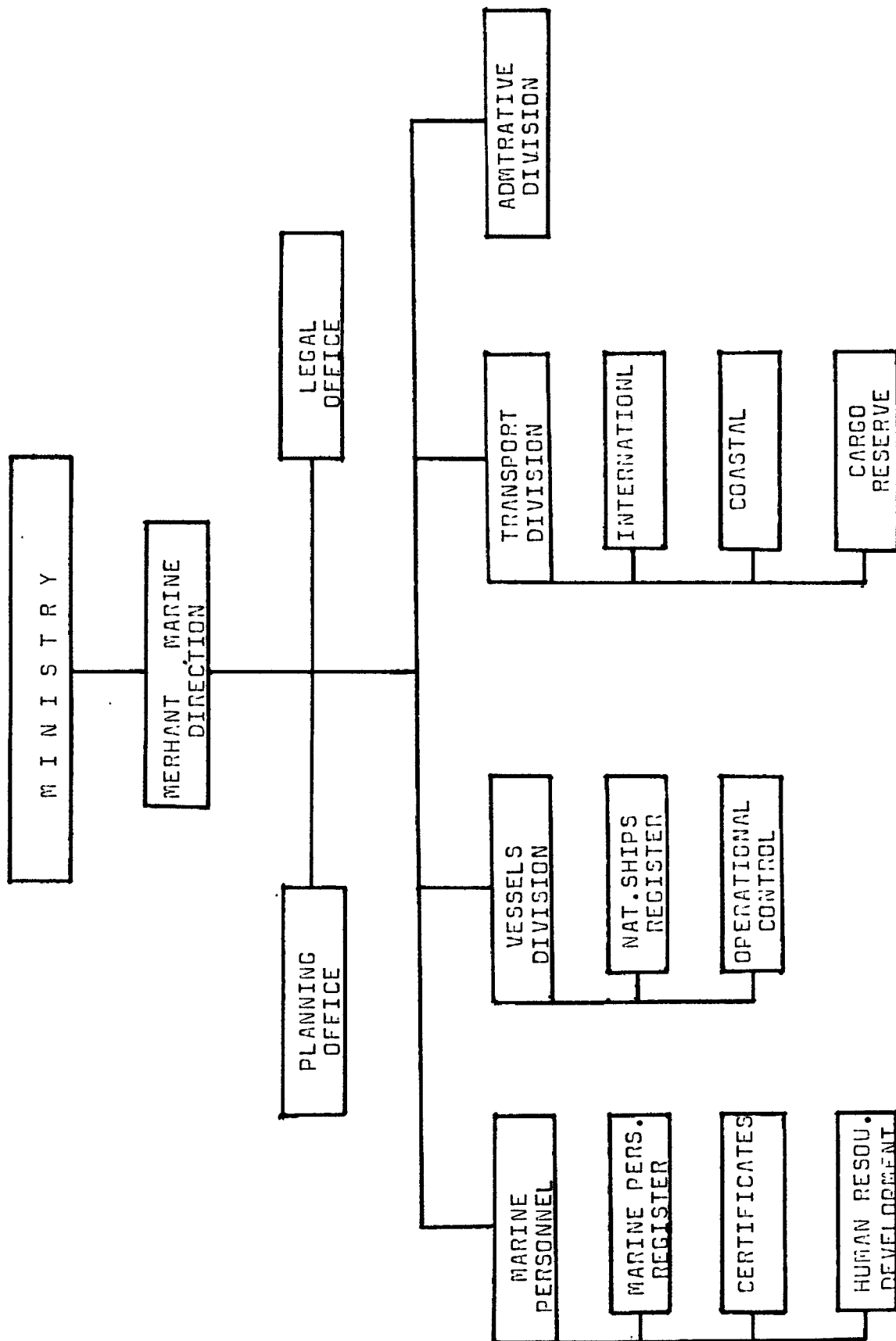
5.2-Coastal traffic.

5.3-Cargo reserved control

6-Administrative Division

The people that should conform this unit need to have a background principally in the followings matters : nautical, technical, maritime administration or experience like captain or chief engineer of the merchant marine.

DIRECTION OF MERCHANT MARINE



2-Direction of Maritime Safety.

This unit should have as object the application of government policy in matters of safety on ships for human life and environment protection and to maintain the safety standard at sea activities established in the international conventions and in the national rules.

The unit should have the following organization:

-Director of Maritime Safety

1-Planning and coordination office

2-Legal Office

2.1-Investigations

2.2-Reglamentation

3-Safety

3.1-Nautical

3.2-Technical

4.3-Equipments

4-Environment protection

4.1-Contingency plans

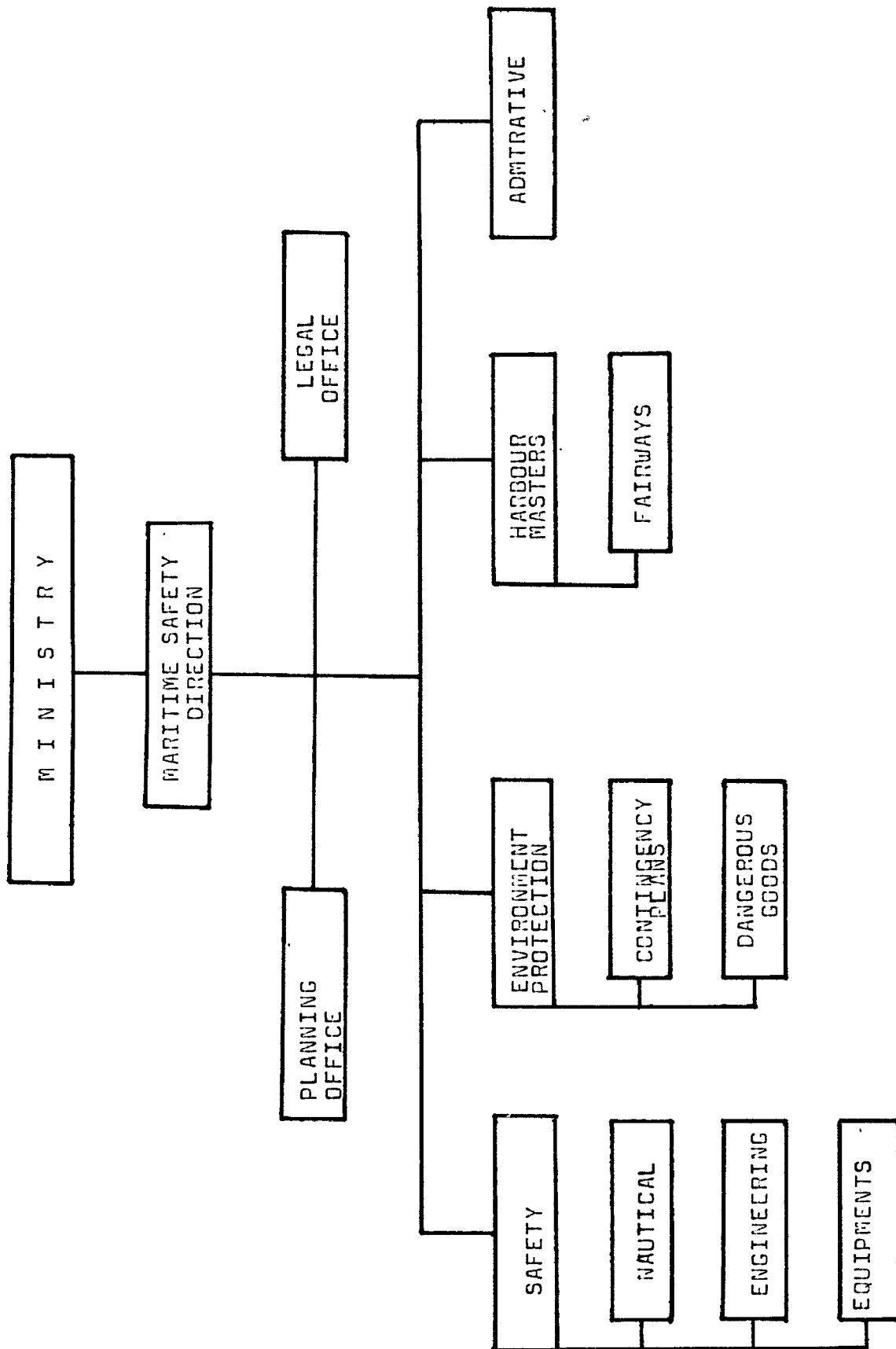
4.2-Dangerous goods

5-Master Harbours

5.1-Fairways

6-Administrative Division

DIRECTION OF MARITIME SAFETY



VI-FUNCTIONS

1-Direction of Merchant Marine

The following functions have been considered as most important in accordance with the object of this administrative unit :

1) To execute the Government policy in the matters related with the merchant marine its control and development.

2) To advise the Government about the adoption or ratification of international conventions.

3) To issue the certificates for ship's officers, machine officers and crews .

4) To register the seafarer and the personnel involved in merchant activities in land controlling their organizations.

5) To do the examinations for ship's officers, machine officers and seafarer for their promotion to the different degrees.

6) To advise the Government and supervise the organization of nautical schools and training centers.

7)To effect the National Ship Register.

8)To carry out the studies about the necessity and characteristics of the National Fleet.

9)To approval the investment projects of the colombian shipowners in regarding of the national scheme of development of the sector.

10)To approval the request for modification or shipbreaking of the national vessels.

11)To give the authorization for the vessels operations in the jurisdictional waters without prejudice of the application of safety rules.

12)To regulate, to direct and control maritime transport activities international and coastal of the national fleet; public or private transport.

13)To give or cancel the routes in the maritime transport and to establish the conditions in the performance of the services .

14)To authorize agreements, conventions and associations of the shipowners in accordance with national interest.

15)To authorize the charter-parties in which are involved the national shipowners.

16) To approve the participation of national shipowners in the international maritime transport conferences; to register their tariff, rules and freight rates modifications.

17) To authorize the freight rates for maritime transport, international or coastal.

18) To authorize the cargo reserve for the national flag.

2-Direction of Maritime Safety

In this project has been considered the following functions as the most important in accordance with the object of this administrative unit:

1) To execute the Government policy in matters related with the safety on ships for the protection of human life and environment at sea.

2) To advise the Government about the adoption or ratification of international conventions related with safety matters at sea.

3) To regulate, to direct and control the activities related with safety in navigation and safety of life at sea.

4) Establish the minimum safe manning

5) To regulate, to authorize and control the activities related with calls at port, to land, anchorage, tug and sail out the port.

6) To practice the visit of reception to the ships in the Colombian ports for the respective harbour master.

7) To install and maintain the navigation aids, and lighthouses.

8)To supervise and control of pilotage services.

9)To apply, to coordinate and supervise the observance of national and international rules for the preservation and protection of marine environment.

10)To enquire and judge the infractions of the national rules of safety ;to investigate the maritime accidents and to apply the sanctions.

11)To supervise the aspects concerning delegation of responsibilities to classification societies.

12)To direct and supervise the activities concerning with carry out of surveys principally in matters related with the application of international conventions as SOLAS 74 and /76 Protocol ,MARPOL 73, LOAD LINES 66 ,etc.

13)To supervise and control the application of national and international rules and codes about the carriage of dangerous goods .

14)To organize and direct the activities related with the contingency plans;to achieve and coordinate the necessary actions in any emergency case at sea.

CONCLUSIONS

After we have analyzed the present organization of Maritime Administration in Colombia we deduce the following aspects:

-The maritime matters have a juridical basis of very recently modification, into which are considered the principal aspects involved in the maritime activities.

-It's possible to deduce that it is not easy to do changes in the National Maritime Administration considering that it has only happened twice in 33 years the last one in September 1984.

-The new reformation has not considered an important change in the structural aspect of the organization. Thus the solution of problems are kept on a low hierarchy level regarding the importance of their functions.

-Other aspects detected in the past like problems areas in the organization didn't find solution in the new reform. These problems are a lack

of administrative autonomy and a way that permits it to get technical and human resources that will be able to perform efficiently in the fulfillment of its functions.

-In the actual maritime administration the merchant marine functions remain together with other important maritime activities but they need a more relevant consideration in function that their responsibilities cover all the country.

-The variety and importance of the responsibilities of the actual National Maritime Administration needs a structure according with their different aspect under its responsibility.

-The maritime safety aspect remain as a very secondary matter between many other functions in the organization.

RECOMMENDATIONS

1-The human resource is considered as fundamental factor in all organizations. One of the assumption made in this work ^{was} ~~was~~ referred to this aspect, so the first recommendation that I should permit to do is to carry out a program of capacitation for the functionaries of the maritime administration. Then it is necessary to elaborate a program to be executed in short, medium and long term. The principal areas that should be considered are: nautical and engineer education, safety administration in nautical and engineer ; the program should consider to send every year one student in each area of specialization and maintain the program at least during five years. The center for this training The World Maritime University, this program in the medium term will permit the formation of a technical group that will be in charge of the preparation of the national personnel so in quantity as quality ^{ce} necessary to get an efficient administration of maritime affairs.

2-Considering the possibility to conform of group of technicians in maritime matters and public administration to study in deep the feasibility of the ideas proposed in this work, in regard that each aspect presented here required an analysis from different points of view and considering that this work is only the presentation of one alternative to discuss its viability as a project with one application in the long term keep in mind the recent reform in the national administration last year.

3- I permit myself to suggest the necessity of organizing a specialized team of experts for each aspect related with the maritime administration that represent the colombian Government in the international conferences in a permanent form to guarantee the continuity factor that is necessary to become expert in each matter in question in these international meetings.

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